

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
v.)	No. 3:22-CR-88-TAV-DCP
)	
JARVIS D. HARPER,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or recommendation as may be appropriate. The parties appeared before the undersigned on June 20, 2023, for a status conference on pending pretrial motions. Assistant United States Attorney Russ Swafford appeared on behalf of the Government. Assistant Federal Defender Jonathan A. Moffatt represented Defendant Jarvis Harper, who was also present. The Court reviewed the pending matters, noting that Defendant has a motion to suppress evidence [Doc. 20] and two motions to dismiss the Indictment [Docs. 21 & 44] pending. The Court held an evidentiary and motion hearing on the motion to suppress and the first motion to dismiss on March 10, 2023. Thereafter, the parties filed post-hearing briefs [Docs. 38 & 42] on April 18 and May 12, 2023. On May 3, 2023, Defendant moved for leave to file a second motion to dismiss, which was unopposed and granted [Doc. 43]. The Government responded to this motion on June 19, 2023 [Doc. 49]. The Court set a motion hearing on Defendant's second motion to dismiss for August 3, 2023, at 2:00 p.m.

In light of the need to litigate the pending pretrial motions, Mr. Moffatt made an oral motion to continue the August 22, 2023 trial date. He stated that he had discussed the need for a trial

continuance with Defendant. He stated that the Court needs time to review and rule on the late motion to dismiss and his other dispositive motions. He asked that the Court also continue the July 21, 2023 plea deadline. AUSA Swafford stated the Government does not oppose the motion to continue and agrees that additional time is needed to litigate pretrial motions. The parties agreed on a new trial date of December 12, 2023.

The Court finds Defendant's oral motion to continue the trial is not opposed by the Government, is necessary to conclude litigation of pretrial motions, and is well-taken. The Court also finds that the ends of justice served by granting a continuance outweigh the interest of Defendant and the public in a speedy trial. 18 U.S.C. § 3161(h)(7)(A). Due to intervening conflicts for both parties, the Court set a motion hearing on the second motion to dismiss for August 3, 2023, at 2:00 p.m. After this hearing, the Court will need time to prepare a report and recommendation. 18 U.S.C. § 3161(h)(1)(H). Thereafter, the parties will need time to file objections and respond to objections. Then, the District Judge will need time to rule on the dispositive motions. 18 U.S.C. § 3161(h)(1)(H). Once the litigation of pretrial motions is complete, the parties may need additional time to prepare for trial. The Court finds that a continuance is warranted to permit the litigation of pretrial motions and trial preparation. Thus, the Court finds that without a continuance, the parties would not have the reasonable time necessary to prepare for trial, even proceeding with due diligence. 18 U.S.C. § 3161(h)(7)(B)(iv).

Accordingly, Defendant's oral motion to continue the trial is **GRANTED**, and the trial of this case is **CONTINUED** to **December 12, 2023**. The Court finds that all the time between the filing of the second motion to dismiss on May 24, 2023, and the new trial date of December 12, 2023, is fully excludable time under the Speedy Trial Act for the reasons set forth herein. *See* 18

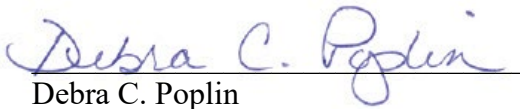
U.S.C. § 3161(h)(1)(D), -(1)(H), & -(7)(A)-(B). The Court also sets a new schedule in this case, which is stated in detail below.

The Court **ORDERS** as follows:

- (1) Defendant's oral motion to continue the trial and plea deadline is **GRANTED**;
- (2) The trial of this matter is reset to commence on **December 12, 2023, at 9:00 a.m.**, before the Honorable Thomas A. Varlan, United States District Judge;
- (3) All time between the filing of the second motion to dismiss on May 24, 2023, and the new trial date of **December 12, 2023**, is fully excludable time under the Speedy Trial Act for the reasons set forth herein;
- (4) The parties shall appear for a motion hearing on the second motion to dismiss on **August 3, 2023, at 2:00 p.m.**;
- (5) The deadline for filing a plea agreement in the record and for providing reciprocal discovery is **November 13, 2023**;
- (6) The parties are to appear before the undersigned for a final pretrial conference on **November 21, 2023, at 10:00 a.m.**;
- (7) The deadline for filing motions *in limine* is **November 27, 2023**; and
- (8) Requests for special jury instructions with appropriate citations to authority pursuant to Local Rule 7.4. shall be filed on or before **December 1, 2023**.

IT IS SO ORDERED.

ENTER:


Debra C. Poplin
United States Magistrate Judge